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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D. C.

In the Matter of the Application of
AMERICAN TELEPHONE AND TELEGRAPH COMPANY

For authority under Section 214 of the
Communications Act of 1934, as amended,
to construct and operate twin deep-sea
submarine cables between Point Reyes,
California and Koko Head, Oahu, Hawaii

FILE NO. P-C-3620

In the Matter of

License authorizing the landing and
operation of twin submarine cables
between Point Reyes, California and
Koko Head, Oahu, Hawaii by the
American Telephone and Telegraph
Company

FILE NO. S-C-L-14

PETITION FOR REHEARING ON
BEHALF OF THE WESTERN
UNION TELEGRAPH COMPANY

Pursuant to Section 405 of the Communications Act of 1934, as amended, The Western Union Telegraph Company, hereinafter referred to as "Western Union", one of the protestants in the above-entitled matter, files this petition for rehearing and requests the Commission to reconsider and modify its orders released September 8, 1955 and September 19, 1955. Western Union has no objection to the construction and operation of a cable system between the United States and Hawaii for voice communication service and does not question such need from a national defense standpoint. However, it respectfully requests that the orders be modified so as to include in the authorization herein provisions (1) that the use of the facilities herein authorized shall be limited to provide telephone service between the United States and Hawaii and (2) that the American Telephone and Telegraph Company make available to the record communications carriers the necessary facilities to meet all record communications requirements including telegraph, private-line telegraph, TWX and facsimile services between the mainland and Hawaii.

In support of its petition for rehearing, Western Union respectfully shows:

In his separate concurring statement, Commissioner Bartley recognizes that the Commission by this order would abandon its long established communications policy in overseas communications of the

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separation of voice and record communications. In his statement, Commissioner Lee would reserve for further examination the question whether the American Telephone and Telegraph Company should be permitted to engage in overseas telegraph communications. We also respectfully call the Commission's attention to the fact that it has apparently overlooked the Congressional policy expressed in the Communications Act that there be a separation of domestic and international telegraph operations.

In its application herein for a certificate under Section 214 of the Act, the American Telephone and Telegraph Company alleged:

- "5. The proposed cable system will be used to supplement existing radio facilities of the applicant which, in conjunction with facilities provided by the Hawaiian Telephone Company, now furnish service between the continental United States and the Hawaiian Islands. It will be used to provide message telephone service and various private line services, including telephone and telegraph, which applicant now furnishes in the continental United States." (emphasis supplied)

Concededly, American Telephone and Telegraph Company is a large domestic telegraph carrier. It also cannot be disputed that telegraph service between the United States and Hawaii is international telegraph operations as defined in Section 222 (a) (6) of the Communications Act. The Commission's orders granting the application and authorizing the landing licenses herein without limiting the use for telephone services are, in effect, an authorization to a domestic telegraph carrier to enter the international telegraph field.

Sections 222 (b) (1) and 222 (c) (2) of the Communications Act expressly set forth the Congressional policy that there be a separation of domestic and international telegraph operations. The American Telephone and Telegraph Company has consistently obstructed the effectuation of the Domestic Communications Policy expressed in the Communications Act by refusing to enter into bona fide negotiations directed toward disposing of its domestic telegraph operations. It seems inconceivable that the commission would approve the entrance of A. T. & T. into the international telegraph business in further defiance of Congressional policy. If national defense requires a change or modification of this long-standing policy, Congress should make the change. Certainly, national policy should not be altered by one administrative agency at the request of another.

The need for Congressional attention is further apparent when the consequences of the Commission orders are considered. The unconditional authorization herein creates an anomalous and inequitable situation. At a time when Western Union is required to divest itself of its international telegraph operations (Sections 222 (c) (2)), its principal competitor in the domestic telegraph field is being

authorized to engage in international operations. The effect of the Commission's orders, therefore, is to establish a privileged carrier and to grant it immunity from policy considerations applying to other carriers. If the Commission has reached the conclusion that the Congressional policy should be changed, it should make appropriate recommendations to Congress so that authority be granted to all domestic telegraph carriers to engage in the field of international telegraph operations.

WHEREFORE, Western Union respectfully requests that the Commission reconsider and modify its orders of September 8, 1955 and September 19, 1955 so as to limit the use of the facilities therein authorized to telephone services between the United States and Hawaii and to include the further provision that the American Telephone and Telegraph Company make available to the record communications carriers the necessary facilities to meet all record communications requirements.

Respectfully submitted,

JOHN H. WATERS
WILLIAM WENDT

Attorneys for the Western
Union Telegraph Company,
60 Hudson Street,
New York 13, N. Y.

Dated: New York, N. Y.
September 28, 1955.

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STATE OF NEW YORK)
)
 COUNTY OF NEW YORK) ss

ANNA V. De GARAY, being duly sworn, deposes and says that she has this day served copies of the foregoing Petition of The Western Union Telegraph Company, on the following, by mailing copies thereof to them at the following addresses:

T. Brooke Price, Esq.,
 American Telephone and
 Telegraph Company,
 195 Broadway,
 New York 7, N. Y.

Howard H. Hawkins, Esq.,
 RCA Communications, Inc.
 66 Broad Street,
 New York City, N. Y.

George D. Nives, Esq.,
 Globe Wireless Ltd.,
 111 Sutter Street,
 San Francisco, California

Office of Defense Mobilization,
 Washington, D. C.

James A. Kennedy, Esq.,
 American Cable & Radio Corporation,
 67 Broad Street,
 New York City, N. Y.

Mr. Harold G. Cowgill, Esq.,
 Chief, Common Carrier Bureau,
 Federal Communications
 Commission,
 Washington 25, D. C.

ANNA V. De GARAY

Subscribed and sworn to before me
 this 21th day of September 1955.

WALTER E. DESIEGEL

Walter E. Desiegel
 Notary Public, State of New York
 No. 43-0270300
 Qual. in Richmond Co. Cert, filed
 with N.Y. Co. Clerk
 Commission Expires March 30, 1957.

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